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SENATE BILL 286

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

LEONARD LEE RAWSON

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; RAISING UNEMPLOYMENT
BENEFITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 51-1-4 NMSA 1978 (being Laws 1969,
Chapter 213, Section 1, as amended) is amended to read:

"51-1-4. MONETARY COMPUTATION OF BENEFITS-- PAYMENT
GENERALLY. --

A. All benefits provided herein are payable from
the unemployment compensation fund. All benefits shall be
paid in accordance with such regulations as the secretary may
prescribe through employment offices or other agencies as the
secretary may by general rule approve.

B. Weekly benefits shall be as follows:

(1) an individual's "weekly benefit amount"

Underscored material = new
[bracketed material] = delete

1 is an amount equal to one twenty-sixth of the total wages for
2 insured work paid to him in that quarter of his base period in
3 which total wages were highest. No benefit as so computed may
4 be less than ~~[ten]~~ twenty percent or more than ~~[fifty]~~ fifty-
5 two and one-half percent of the ~~[state's]~~ individual's average
6 weekly wage for all insured work. ~~[The state's average weekly~~
7 ~~wage shall be computed from all wages reported to the~~
8 ~~department from employing units in accordance with regulations~~
9 ~~of the secretary for the period ending June 30 of each~~
10 ~~calendar year divided by the total number of covered employees~~
11 ~~divided by fifty-two, effective for the benefit years~~
12 ~~commencing on or after the first Sunday of the following~~
13 ~~calendar year.]~~ Any such individual is not eligible to
14 receive benefits unless his total base-period wages equal at
15 least one and one-fourth times the wages for insured work in
16 that quarter of his base period in which such wages are
17 highest. For purposes of this subsection, "total wages" means
18 all remuneration for insured work, including commissions and
19 bonuses and the cash value of all remuneration in a medium
20 other than cash;

21 (2) each eligible individual who is
22 unemployed in any week during which he is in a continued
23 claims status shall be paid, with respect to such week, a
24 benefit in an amount equal to his weekly benefit amount, less
25 that part of the wages, if any, or earnings from self-

Underscored material = new
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1 employment, payable to him with respect to such week which is
2 in excess of one-fifth of his weekly benefit amount. For
3 purposes of this subsection only, "wages" includes all
4 remuneration for services actually performed in any week for
5 which benefits are claimed, vacation pay for any period for
6 which the individual has a definite return-to-work date, wages
7 in lieu of notice and back pay for loss of employment but does
8 not include payments through a court for time spent in jury
9 service;

10 (3) notwithstanding any other provision of
11 this section, each eligible individual who, pursuant to a plan
12 financed in whole or in part by a base-period employer of such
13 individual, is receiving a governmental or other pension,
14 retirement pay, annuity or any other similar periodic payment
15 that is based on the previous work of such individual and who
16 is unemployed with respect to any week ending subsequent to
17 April 9, 1981 shall be paid with respect to such week, in
18 accordance with regulations prescribed by the secretary,
19 compensation equal to his weekly benefit amount reduced, but
20 not below zero, by the prorated amount of such pension,
21 retirement pay, annuity or other similar periodic payment that
22 exceeds the percentage contributed to the plan by the eligible
23 individual. The maximum benefit amount payable to such
24 eligible individual shall be an amount not more than twenty-
25 six times his reduced weekly benefit amount. If payments

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[bracketed material] = delete

1 referred to in this section are being received by any
2 individual under the federal Social Security Act, the division
3 shall take into account the individual's contribution and make
4 no reduction in the weekly benefit amount;

5 (4) in the case of a lump-sum payment of a
6 pension, retirement or retired pay, annuity or other similar
7 payment by a base-period employer that is based on the
8 previous work of such individual, such payment shall be
9 allocated, in accordance with regulations prescribed by the
10 secretary, and shall reduce the amount of unemployment
11 compensation paid, but not below zero, in accordance with
12 Paragraph (3) of this subsection; and

13 (5) the retroactive payment of a pension,
14 retirement or retired pay, annuity or any other similar
15 periodic payment as provided in Paragraphs (3) and (4) of this
16 subsection attributable to weeks during which an individual
17 has claimed or has been paid unemployment compensation shall
18 be allocated to such weeks and shall reduce the amount of
19 unemployment compensation for such weeks, but not below zero,
20 by an amount equal to the prorated amount of such pension.
21 Any overpayment of unemployment compensation benefits
22 resulting from the application of the provisions of this
23 paragraph shall be recovered from the claimant in accordance
24 with the provisions of Section 51-1-38 NMSA 1978.

25 C. Any otherwise eligible individual is entitled

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[bracketed material] = delete

1 during any benefit year to a total amount of benefits equal to
2 whichever is the lesser of twenty-six times his weekly benefit
3 amount or sixty percent of his wages for insured work paid
4 during his base period.

5 D. Any benefit as determined in Subsection B or C
6 of this section, if not a multiple of one dollar (\$1.00),
7 shall be rounded to the next lower multiple of one dollar
8 (\$1.00).

9 E. The secretary may prescribe regulations to
10 provide for the payment of benefits that are due and payable
11 to the legal representative, dependents, relatives or next of
12 kin of claimants since deceased. These regulations need not
13 conform with the laws governing successions, and the payment
14 shall be deemed a valid payment to the same extent as if made
15 under a formal administration of the succession of the
16 claimant.

17 F. The division, on its own initiative, may
18 reconsider a monetary determination whenever it is determined
19 that an error in computation or identity has occurred or that
20 wages of the claimant pertinent to such determination but not
21 considered have been newly discovered or that the benefits
22 have been allowed or denied on the basis of misrepresentation
23 of fact, but no redetermination shall be made after one year
24 from the date of the original monetary determination. Notice
25 of a redetermination shall be given to all interested parties

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1 and shall be subject to an appeal in the same manner as the
2 original determination. In the event that an appeal involving
3 an original monetary determination is pending at the time a
4 redetermination is issued, the appeal, unless withdrawn, shall
5 be treated as an appeal from such redetermination. "

6 Section 2. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 1998.

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1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
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6 February 4, 1998
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8 Mr. President:
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10 Your COMMITTEES' COMMITTEE, to whom has been referred
11

12 SENATE BILL 286
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14 has had it under consideration and finds same to be GERMANE, in
15 accordance with constitutional provisions, and thence referred to the
16 PUBLIC AFFAIRS COMMITTEE.
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19 Respectfully submitted,
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Manny M. Aragon, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

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